

MINUTES
BOARD OF SUPERVISORS
COUNTY OF YORK

Regular Meeting
September 4, 2001

7:00 p.m.

Meeting Convened. A Regular Meeting of the York County Board of Supervisors was called to order at 7:00 p.m., Tuesday, September 4, 2001, in the Board Room, York Hall, by Chairman James S. Burgett.

Attendance. The following members of the Board of Supervisors were present: Walter C. Zarembo, Sheila S. Noll, Donald E. Wiggins, James S. Burgett, and H. R. Ashe.

Also in attendance were James O. McReynolds, County Administrator; and James E. Barnett, County Attorney.

Invocation. William C. Parker, Public Information Officer, gave the Invocation.

Pledge of Allegiance to the Flag of the United States of America. Chairman Burgett led the Pledge of Allegiance.

PRESENTATIONS

COMMENDATION OF THE YORK COUNTY LITTLE LEAGUE SENIOR GIRL'S ALL STAR SOFTBALL TEAM

Chairman Burgett welcomed the members and coaches of the York County Little League Senior Girl's All Star Softball Team, and he read highlighted portions of Resolution R01-159 adopted by the Board of Supervisors congratulating and commending the team for its outstanding winning season. He and Mrs. Noll then presented to each of the following members and coaches a bound and sealed copy of the resolution:

Karilyn Aldrich	Kelly Barbrey
Karen Burnette	Lindsey Churchill
Kacie Crawford	Kristin Crawford
Kristina Ethridge	Aubrey Flood
Ashley Hicks	Savannah Mitchell
Heather Momany	Kristina Nagahiro
Amy Patterson	Sara Sparks

Jeff Crawford
John Collins
Bobby Sparks

REDISTRICTING

Mr. Reynolds made a presentation concerning the need for redistricting due to the 2000 Census and the four alternatives that have been prepared by staff and publicized for public review and comment. He noted that staff had scheduled the following public meetings:

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Monday, September 10	Coventry Elementary School Cafeteria
Monday, September 17	Yorktown Elementary School Library
Wednesday, September 19	Waller Mill Elementary School Library
Thursday, September 20	Grafton Bethel Elementary School Library
Monday, September 24	Seaford Elementary School Library
Wednesday, September 26	Charles Brown Park Community Room
Thursday, September 27	Griffin-Yeates Center Cafeteria

Mrs. Noll indicated she was not aware of the dates, and her schedule conflicted with one of the dates.

Mr. McReynolds indicated staff would work with Mrs. Noll to schedule another meeting if she so desired.

CITIZENS COMMENT PERIOD

Mr. Walt Akers, 110 Kenneth Drive, President of the Fifes and Drums of York Town, noted he had recently received a message that the Board might be working under some misconceptions regarding the Fifes and Drums' search for a new home. He stated he has been working with Superintendent Gould of the National Park Service for some time about constructing a building in Yorktown, but it could be as much as five years before that could happen. Mr. Akers also stated that Superintendent Gould has indicated he was not against Lot 32 for a land swap with the County. He then addressed the finances of the Fifes and Drums, stating he had prepared copies of its financial statement for the Board's review. He stated the Fifes and Drums has come a long way, but it still has a very modest amount set aside and not enough with which to build a building. Mr. Akers stated the Fifes and Drums would have a problem raising funds for the renovations to a building on Park Service property that would be deeded to the federal government, and he asked the Board for help in this matter.

Ms. Diane Estano, 208 Church Road, requested the Board's assistance in finding a way to provide handicapped access to the historical exhibits in Yorktown. She stated handicapped persons in wheelchairs are not able to get in to many of the buildings in Yorktown and do not have access to the ship exhibit at the Visitors' Center.

COUNTY ATTORNEY REPORTS AND REQUESTS

Mr. Barnett stated he hoped that by the middle of next week he would have a draft of the legislative program for 2002 to send to the Board. He then spoke concerning the change in composition of the Yorktown Trustees, stating that at its meeting held August 16 the Trustees voted unanimously to convey title of the freight shed to the County. He also noted there was a need for a slight modification to the development agreement with the Trustees with respect to the length of time the County can hold title to the freight shed building. Staff is looking at a mechanism by which, under applicable tax laws, the County can generate transferable tax credits with costs associated to renovating the building. Staff has been told that the County needs to be able to hold title to the building for up to 45 years, and the Trustees have agreed to amend the agreement to allow the County to hold title for that period of time in order to qualify for the tax credits. Mr. Barnett indicated that both of these items will be brought before the Board for approval as soon as possible.

Mr. Ashe indicated he had brought the matter of the waterfront development up before, and he still believed the Board needed a thorough study of the layout of the waterfront area, including how the parking will be set up. He stated he was personally not satisfied with the present layout.

Chairman Burgett indicated Mr. Kraus would contact Mr. Ashe to meet with him and hear his concerns.

COUNTY ADMINISTRATOR REPORTS AND REQUESTS

Mr. McReynolds suggested that the 2002 Legislative Program be scheduled for a work session on either September 25 or October 9, and he asked the Board members to let him know of their preferred date so it can be placed on the calendar. He also reminded the Board members of the work session to be held September 11 regarding review of the personnel policies and procedures and the purchasing policy, the mosquito control/stormwater programs and issues, and the Zoning Ordinance amendments.

MATTERS PRESENTED BY THE BOARD

Mr. Ashe indicated he recently attended the orientation for the 2001-2002 Youth Commission. He noted this year each district is represented by three members, making it the largest Youth Commission York has ever had. He stated Mrs. Smith's talk on Government 101 was very interesting, and he was excited to see so many of the new members turn out for the orientation.

Mrs. Noll stated that last week she went to ODU for a presentation on the Magnetic Levitation Transportation Project. She indicated they put the first pieces of the track in, and it will be exciting to see if it works. It is a much less expensive technology than bringing in high speed rail; and if it works, the planners will have to go back to the drawing board to come up with better cost estimates for the region.

Mr. Zaremba noted he had received the York County School Division's "Report to the Community" that was mailed out to all York County residences. He commended the School Division and the School Board for providing the citizens with a very concise report on the School Division and its programs and accomplishments. He then noted he had read an article in the York Town Crier that indicated the Colonial Services Board had received national acclaim. He asked Mrs. Smith to pass on the Board of Supervisors' deepest appreciation and congratulations for the job being performed in that agency. Mr. Zaremba then stated that New Quarter Park would be ceasing full-week operation on September 8 and would be open Saturdays and Sundays only through November 25. The hours will be from 8:00 a.m. to 5:00 p.m. during that period of time, and the park will then shut down completely until Memorial Day. Mr. Zaremba asked that the Board be provided with a report on utilization of the park during the past season, including any suggestions on improving services for next year. He then mentioned the bi-weekly economic development report the Board receives from Mr. Noel, and he asked that the Board members be provided with more information regarding certain potential initiatives concerning the BP property and the Williamsburg Hospital move.

Mr. Wiggins congratulated Mr. Ashe and his wife on their recent marriage. He then indicated the Board receives letters every week commending the personnel and the services of the Department of Fire and Life Safety and the Sheriff's Office. He stated York County is very

fortunate not to have the problems encountered by the large cities, and the residents of York County have come to expect continuation of the high level of services provided. The Board of Supervisors wants to continue to maintain these services, and it will probably consider an increase in personnel in this area in FY03

Chairman Burgett stated he attended the business breakfast last Thursday sponsored by the Industrial Development Authority and the Office of Economic Development. He noted it was an excellent opportunity to network, and there were excellent speakers on workforce development. He stated he also attended the Aviation World's Fair groundbreaking ceremony, and he asked Mr. McReynolds to have staff look at what needed to be done in order to get York County's seat back on the Peninsula Airport Commission. Chairman Burgett then spoke of the summer reading program in the County's library system, stating last year 1,600 children participated, and this year 4,330 children participated. He stated the Board wishes to look at 911 tax relief for nursing home residents, as well as moving forward on the parking ordinance. Concerning the next work session on the Zoning Ordinance amendments, Chairman Burgett asked the Board members to come to the meeting prepared with all the information staff has previously provided and their questionnaires completed. He also asked that an update be provided to the Board on the communications system and where it is going.

Meeting Recessed. At 7:55 p.m. Chairman Burgett declared a short recess.

Meeting Reconvened. At 8:02 p.m. the meeting was reconvened in open session by order of the Chair.

PUBLIC HEARING

GRAFFITI ORDINANCE

Mr. Barnett made a presentation on proposed Ordinance No. 01-16 to add a new section to the York County Code which would declare graffiti to be a public nuisance, declaring certain defacement of public or private buildings to be a misdemeanor, and providing for removal of graffiti at the property owner's expense.

Chairman Burgett then called to order a public hearing on proposed Ordinance No. 01-16 that was duly advertised as required by law and is entitled:

AN ORDINANCE TO ADD A NEW SECTION 16-41, GRAFFITI, TO CHAPTER 16, OFFENSES—MISCELLANEOUS, YORK COUNTY CODE, DECLARING GRAFFITI TO BE A PUBLIC NUISANCE, DECLARING CERTAIN DEFAACEMENT OF PUBLIC OR PRIVATE BUILDINGS TO BE A MISDEMEANOR, AND PROVIDING FOR REMOVAL OF GRAFFITI AT THE PROPERTY OWNER'S EXPENSE

Mr. Joe Carney, representing the Virginia Peninsula Association of Realtors, stated the Association agreed with the concept of cleaning up the graffiti because it makes the realtor's job of selling real estate in York County and on the Peninsula easier. An appealing County will help create a positive environment for business, both existing and prospective. He noted the Association was a professional trade organization representing the interests of real estate professionals and serves to protect the interests of private property owners. He stated the Association believes that property owners whose buildings or structures are damaged through graffiti

or other defacement should not be unduly penalized by local governments for failing to clean their buildings. The Association supports the time limits proposed in the ordinance and asked that nothing less than 15 days' notice be imposed. Mr. Carney also suggested that in the case where a property owner resides outside the County, the owner be allowed additional time to remove the graffiti from his property. The Association also supports the dedication of community service time by offenders to the restoration of property and requiring convicted perpetrators to undertake property restoration work rather than pay a fine.

There being no one else present who wished to speak concerning the subject ordinance, Chairman Burgett closed the public hearing.

Mr. Ashe asked if parental liability was set by state statute.

Mr. Barnett indicated it was limited by statute and was only increased to \$1,500 a few years ago.

Mr. Ashe asked if the law provides for insurance to pick up costs over the \$1,500 limit.

Mr. Barnett indicated it did not. He stated the law only allows the locality to go after the parents for up to \$1,500. He stated there might be other avenues to pursue in gaining restitution.

Mr. Ashe asked Mr. Barnett if he had a legal opinion as to whether insurance would cover this type of matter.

Mr. Barnett stated he would suspect the answer would be no.

Mr. Ashe suggested that section (e)(2)a. be amended to require notice be sent by registered or certified mail rather than the regular mail. He stated he also felt the 15-day notice for the owner to be required to take corrective action should be amended to read 15 days from the date of receipt of the notice. He also suggested that the last sentence at the end of the paragraph be amended to read "Where the property owner fails to abate the nuisance within fifteen (15) days after receipt of the notice or refusal of the owner to receive notice, the county administrator is authorized to undertake efforts forthwith to remove or obscure the graffiti." Mr. Ashe then addressed subsection (f) regarding emergency removal of graffiti, stating the 48 hour time limit to remove the graffiti might be hard on the property owner if there was a lot of cost involved.

Mrs. Noll agreed that the notices should be sent either certified or registered mail, whichever is the least expensive.

Mr. Zaremba asked what the County gets out of it if the perpetrator is apprehended and brought before the criminal court and found guilty of a Class 1 misdemeanor.

Mr. Barnett stated the perpetrator could be fined up to \$2,500. If it was a County ordinance under which the charge was brought, the fine goes into the County coffers.

Mr. Zaremba asked what happens if the perpetrator is tried and found guilty of a Class 6 felony.

Mr. Barnett stated the fine would be assessed and paid to the state treasury. He stated he felt there would also be jail time involved.

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Mr. Zaremba indicated he was concerned by the fact that the property owner has to pay to remove the graffiti, yet the County or the state receives the fine that is assessed to the perpetrator rather than the property owner. He stated he felt there should be some kind of provision that reconciles the businessman's expenses to what the County gets from the parents.

Mr. Wiggins thanked Mr. Carney for his views on the proposed ordinance. He asked if the fine assessment would be made per occurrence.

Mr. Barnett indicated it would be at the discretion of the criminal court to assess per charge.

Mr. Wiggins spoke of the damage that has been done to the new granite work on the waterfront by the skateboarders and the graffiti that has been drawn in the granite with rocks. He stated it would take thousands of dollars to correct this damage, and he asked if the County could go after the perpetrator for the actual amount of damage.

Mr. Barnett stated the County would not be the ones going after the perpetrators in a criminal case. He speculated that if there was more than one instance of graffiti damage on the part of one visit to a particular area, it would probably be treated as one offense.

Chairman Burgett noted that the County now has a Crime Prevention Deputy working with the local businesses. He stated he walked the waterfront today and counted 10 blocks of granite that had been defaced. Each one of the blocks costs \$1,700. The trash cans cost \$500 each, and they are also being defaced. He stated the ordinance was not perfect and may need some adjustments in the future, but he would hope the Board would adopt the ordinance tonight. He stated he also agreed that the ordinance should be amended to require certified mail notices, and he agreed with the amendment to start the 15-day period when the notice has been received or refused. Chairman Burgett stated he felt it was the absentee owners that were the problem. The ordinance is not meant to be punitive to the business person. He stated the Board was just trying to be realistic and get something on the books to work with.

Mr. Ashe then moved the adoption of proposed Ordinance No. 01-16(R) that reads:

AN ORDINANCE TO ADD A NEW SECTION 16-41, GRAFFITI, TO CHAPTER 16, OFFENSES—MISCELLANEOUS, YORK COUNTY CODE, DECLARING GRAFFITI TO BE A PUBLIC NUISANCE, DECLARING CERTAIN DEFAACEMENT OF PUBLIC OR PRIVATE BUILDINGS TO BE A MISDEMEANOR, AND PROVIDING FOR REMOVAL OF GRAFFITI AT THE PROPERTY OWNER'S EXPENSE

BE IT ORDAINED by the York County Board of Supervisors this the 4th day of September, 2001, that a new section 16-41 be added to Chapter 16, Offenses—Miscellaneous, York County Code, to read and provide as follows:

Sec. 16-41. Graffiti

- (a) *Definition.* "Graffiti" shall mean the unauthorized application by any means of any writing, painting, drawing, etching, scratching or marking of an inscription, word, mark, figure or design of any type on any public or private building or other real estate or personal property owned, operated or maintained by a governmental entity or agency or instrumentality thereof or by any private person, firm, or corporation.
- (b) *Graffiti prohibited; criminal penalty.*

- (1) It shall be unlawful for any person to willfully or maliciously deface or damage by application of graffiti any public buildings, facilities or other property, or any private buildings, facilities or other property if the damage to the private property is less than one thousand dollars (\$1,000.00). Any person convicted of a violation of this subsection shall be guilty of a Class 1 misdemeanor.
 - (2) Upon a finding of guilt in any case tried before the court without a jury, in the event the violation constitutes a first offense which results in property damage or loss, the court, without entering a judgment of guilt, upon motion of the defendant, may defer further proceedings and place the defendant on probation pending completion of a plan of community service work. If the defendant fails or refuses to complete the community service as ordered by the court, the court may make final disposition of the case and proceed as otherwise provided. If the community service work is completed as the court prescribes, the court may discharge the defendant and dismiss the proceedings against him. Discharge and dismissal under this section shall be without adjudication of guilt and is a conviction only for the purposes of applying the ordinance in subsequent proceedings.
 - (3) Any community service ordered by the court shall, to the extent feasible, include the repair, restoration or replacement of any damage or defacement to property within the county and may include clean-up, beautification, landscaping or other appropriate community service within the county. The county administrator shall supervise the performance of any community service work required and to report thereon to the court imposing such requirement. At or before the time of sentencing under the ordinance, the court shall receive and consider any plan for making restitution or performing community service submitted by defendant. The court shall also receive and consider the recommendations of the court's supervisor of community services concerning the plan.
 - (4) Notwithstanding any other provision of law, no person convicted of a violation of this ordinance shall be placed on probation or have his sentence suspended unless such person shall make at least partial restitution for such property damage or is compelled to perform community services, or both in accordance with Code of Virginia § 19.2-305.1, as it may be amended from time to time.
- (c) *Parental liability for cost of graffiti.* In the event graffiti is applied to any public property by a minor who is living with either or both parents or a legal guardian, the county may institute an action and recover from the parents of the minor, or either of them, or from the legal guardian the costs for damages suffered by reason of the willful or malicious destruction of, or damage to, public property by the minor. The action by the county shall be subject to any limitation of the amount of recovery set forth in Code of Virginia § 8.01-43 or other applicable state law.
- (d) *Graffiti declared a nuisance.* The existence of graffiti within the county in violation of this section is expressly declared a public nuisance, and is subject to the removal and abatement procedures specified in this section.
- (e) *Removal of graffiti.*

- (1) The county administrator is authorized to undertake or contract for the removal or repair of the defacement of any public building, wall, fence or other structure by the application of graffiti.
- (2) The county administrator is also authorized to undertake or contract for the removal or repair of the defacement by graffiti of any private building, wall, fence or other structure visible from any public right-of-way in accordance with the following procedures:
 - a. Prior to such removal of graffiti from private property, the county administrator shall issue to the property owner, by certified mail, return receipt requested, sent to the last address listed for the owner in county property assessment records, a notice which states: the street address and legal description of the property; that the property has been determined by the county to constitute a graffiti nuisance; that the owner must take corrective action to abate the nuisance created by such graffiti within fifteen (15) days of the date of the owner's receipt of the notice or refusal of the owner to receive notice; and that if the graffiti is not removed within the 15-day period, the county will begin removal procedures, the cost of which shall be charged to the property owner, or may institute a legal action to require the property owner to remove or obscure the graffiti. Where the property owner fails to abate the nuisance within fifteen (15) days after receipt of the notice or refusal of the owner to receive notice, the county administrator is authorized to undertake efforts forthwith to remove or obscure the graffiti.
 - b. Before entering upon private property for the purpose of graffiti removal, the county shall attempt to obtain the consent of the property owner, occupant or other responsible party.
 - c. In the event no owner or occupant or person responsible for the graffiti can be found to whom to direct the notice provided for in this subsection, the county, after giving fifteen (15) days notice in a newspaper having general circulation in the county, may proceed to remove or obscure the graffiti and charge the property owner for costs therefor as provided in (g) below.
- (3) Where a structure defaced by graffiti is owned by a public entity other than the county, the removal of the graffiti by the county is authorized only after securing the consent of an authorized representative of the public entity having jurisdiction over the structure.
- (4) In addition to the foregoing, the county administrator is authorized to institute appropriate legal action on behalf of the county, including but not limited to actions pursuant to Code of Virginia section 15.2-900, to compel the owner or owners of the subject property to abate or remove the graffiti at the owner's own cost.
- (f) *Emergency removal of graffiti.* If the county administrator determines that any graffiti is an immediate danger to public health, safety or welfare, then forty-eight (48) hours after the later of (1) mailing notice to the property owner or other responsible party, as provided above and (2) posting notice in a conspicuous place on the property, the county

may remove or cause the graffiti to be removed. The county may bring an action against the property owner or other responsible party to recover the necessary costs reasonably required to remove or obscure the graffiti.

(g) *Assessment of costs against property owner for removal of graffiti.*

(1) If the county undertakes corrective action to remove graffiti from private property after complying with the notice provisions of subsection (e)(2) above, the total cost for such removal and related repairs shall be chargeable to and paid by the property owner, and may be collected as a special assessment against the respective lot or parcel of land to which it relates in the manner in which county taxes and levies are collected.

(2) Every charge authorized by this section with which the owner of any such property has been assessed and which remains unpaid shall constitute a lien against such property with the same priority as liens for unpaid local taxes and enforceable in the same manner as such liens.

(h) Nothing herein shall be deemed a limitation on the rights of the county to seek and enforce the removal or obscuration of graffiti by any other means or remedies available at law or equity.

(i) *Severability.* If any part, subsection, or sentence of this section is for any reason determined by a court of law to be unconstitutional or invalid, such decision shall not affect the remaining portions of this section.

On roll call, the vote was:

Yea: (5) Zaremba, Noll, Wiggins, Ashe, Burgett
Nay: (0)

CONSENT CALENDAR

Chairman Burgett asked that Item No. 5 be removed from the Consent Calendar.

Mrs. Noll moved that the Consent Calendar be approved as amended, Item Nos. 2, 3, 4, and 6, respectively.

On roll call the vote was:

Yea: (5) Noll, Wiggins, Ashe, Zaremba, Burgett
Nay: (0)

Thereupon, the following minutes were approved and resolutions adopted:

Item No. 2. APPROVAL OF MINUTES

The minutes of the following meetings of the York County Board of Supervisors were approved:

August 7, 2001, Regular Meeting
August 14, 2001, Adjourned Meeting

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Item No. 3. PURCHASE AUTHORIZATION: Resolution R01-158.

A RESOLUTION TO CONSTRUCT ROADWAY IMPROVEMENTS

WHEREAS, it is the policy of the Board of Supervisors that all procurements of goods and services by the County involving the expenditure of \$30,000 or more be submitted to the Board for its review and approval; and

WHEREAS, the County Administrator has determined that the following procurement is necessary and desirable, that it involves the expenditure of \$30,000 or more, and that all applicable laws, ordinances, and regulations have been complied with;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 4th day of September, 2001, that the County Administrator be, and hereby is, authorized to conclude procurement arrangements for the following:

	<u>AMOUNT</u>
Russell Lane Roadway Improvements Project	\$183,952

Item No. 4. PUBLIC WATER AND SEWER EXTENSION AGREEMENTS—BULIFANTS, L.P.: Resolution R01-157.

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR
TO EXECUTE (OFF-SITE) PUBLIC WATER AND SEWER EXTENSION
AGREEMENTS PURSUANT TO SECTIONS 18 AND 22 OF THE
COUNTY CODE

WHEREAS, Bulifants, L.P., has requested that the County enter into off-site public sewer and water extension agreements pursuant to Sections 18.1-53(b) and 22-88 (b) of the York County Code to extend utilities to property shown in the County's land records, Tax Map #02-34; and

WHEREAS prior to any additional engineering on the proposed development, the developer has requested that a determination be made as to whether the Board will authorize these extensions of the public facilities of the County;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 4th day of September, 2001, that the Board approves the extension of the County's public water and sewer systems, and that the County Administrator be, and hereby is, authorized to execute off-site public water and sewer extension agreements with Bulifants, L.P., for the proposed extensions of utilities to property shown in the County's land records as Tax Map #02-34; such agreements to be approved as to form by the County Attorney.

Item No. 6. REFUND OF TAXES: Resolution R01-161.

A RESOLUTION TO AUTHORIZE A TAX REFUND TO EAST COAST
OIL, INC.

WHEREAS, York County Code § 21-7.3 requires approval from the Board of Supervisors for the payment of any refund of taxes, penalties and interest in excess of \$2,500.00; and

WHEREAS, East Coast Oil, Inc., has made a proper request for a tax refund for taxes overpaid due to the sale of two of its business locations in the County; and

WHEREAS, the Commissioner of the Revenue, the Treasurer, and the County Attorney have recommended that the request for a tax refund, with interest, be granted in the amount of \$5,870.68;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 4th day of September, 2001, that the Commissioner of Revenue is authorized to refund to East Coast Oil, Inc., overpaid business license tax in the amount of \$5,591.12, together with accrued interest in the amount of \$279.56, for a total refund of \$5,870.68.

Item No. 5. YORK COUNTY COMMUNITY CENTER PROJECT: Proposed Resolution R01-160.
(Removed from Consent Calendar)

Chairman Burgett indicated he understood there was a problem with the indoor running/jogging track.

Mrs. Anne B. Smith, Director of Community Services, stated there had been discussion about not requiring a specific surface track. She stated she made it very clear that the track with a surface to be used specifically for running and jogging is a very important aspect of the project.

Chairman Burgett agreed that a track specifically constructed for running and jogging should be a part of the project.

Mr. Wiggins also noted his agreement.

Mr. Zaremba also agreed, stating the County has a commitment for this project based on a certain size. If the size is going to be reduced, the County's contribution should be reduced or used to make sure the running track is what it should be.

Chairman Burgett asked Mrs. Smith to report the Board's comments back to the Peninsula YMCA.

Mr. Ashe expressed his concern that the track hasn't already been designed into the project and the impact it will cause to change it at this point. He asked if the present design was conducive to this track.

Mrs. Smith stated she felt that it can be. Regarding the design, she stated the YMCA has hired W. M. Jordan as the construction contractor, and they will participate in the final steps of the design to work out the details together. She noted that on October 4 there will be a groundbreaking ceremony for the facility.

Discussion followed on the location of the indoor jogging/running track.

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Mrs. Smith also noted that the staff was in the process of preparing protocols for subsidizing the citizens in the upper area of the County wishing to join the Williamsburg/James City County Recreation Center, which should start November 1.

Chairman Burgett then moved the adoption of proposed Resolution R01-160 that reads:

A RESOLUTION TO AUTHORIZE AMENDMENTS TO THE PUBLIC-
PRIVATE PARTNERSHIP AGREEMENT FOR THE YORK COUNTY
COMMUNITY CENTER BETWEEN THE COUNTY OF YORK AND THE
PENINSULA METROPOLITAN YMCA

WHEREAS, the citizens of York County have expressed an interest in and desire to have available to them a community center, and it is the desire of the Board of Supervisors to provide such a facility, but to do so in the most cost effective manner possible; and

WHEREAS, the York County Board of Supervisors, determining that a public-private partnership was the manner in which such a facility could be provided with the greatest benefit to the citizens and at the lowest investment of tax dollars, adopted Resolution R99-232 on December 15, 1999, authorizing an Agreement between the County and the Peninsula Metropolitan YMCA; and

WHEREAS, that Agreement provided for the long-term lease of County property and a financial contribution toward the construction of such a facility, to be paid in equal annual installments of \$200,000 for a period of 10 years beginning at such time as the YMCA commences construction of the project; and

WHEREAS, the Agreement specified certain details of construction and amenities that the YMCA has asked to amend and which have been closely examined by staff and which do not appear to change either the priority amenities desired by the County nor the overall benefit to the citizens of York;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 4th day of September, that the County Administrator be, and hereby is, authorized to execute amendments to the Agreement with the YMCA which is dated the December 15, 1999, as authorized by Resolution R99-232 (R), to:

- a.) Reduce the total square footage reflected in section 9. a. from a minimum 49,000 square feet to a minimum 45,000 square feet, and
- b.) also in section 9. a., to delete item (10) and to change item (8) from "one or more saunas" to read "two saunas."

On roll call, the vote was:

Yea: (5) Wiggins, Ashe, Zaremba, Noll, Burgett
Nay: (0)

NEW BUSINESS

AMENDMENTS TO BOARD POLICIES

Mr. McReynolds made a presentation on proposed Resolution R01-162 to adopt certain amendments to Board Policies BP94-05, BP94-06, BP94-09, and BP96-15, and to adopt new Board Policy BP01-19.

Mr. Zaremba asked that staff look at the way the Board's agenda is advertised on Channel 46. He stated it only lists the policy numbers but says nothing about what the policies contain. He stated staff needs to be more conscientious in explaining the Board's agenda items to the citizens and advertise the agenda in a more meaningful way.

Mr. Ashe noted one correction to BP94-05. He stated the word "reactive" on the second page in subsection e. should be "reactivate."

Mrs. Noll then moved the adoption of proposed Resolution R01-162 that reads:

A RESOLUTION TO ADOPT CERTAIN AMENDMENTS TO BOARD
POLICY NUMBERS BP94-05, BP94-06, BP94-09 and BP96-15 AND
TO ADOPT NEW POLICY BP01-19

WHEREAS, the York County Board of Supervisors adopted the Board Policies Manual on October 20, 1994; and

WHEREAS, in accordance with Board Policy Number BP94-01, the County Administrator has conducted an annual review of the adopted Policies and has submitted recommendations for certain amendments to four policies and for the adoption of one new policy; and

WHEREAS, the Board has carefully considered the recommendations set forth in the County Administrator's reports to the Board dated July 31, 2001, and August 22, 2001, and has determined that approval of the proposed amendments and the new policy is appropriate;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 4th day of September, 2001, that Board Policy Numbers BP94-05, BP94-06, BP94-09, BP96-15, and new policy BP01-19 be, and they are hereby, amended and adopted to read as set forth in the attachments to the County Administrator's July 31, 2001, and August 22, 2001, reports to the Board of Supervisors.

On roll call, the vote was:

Yea: (5) Ashe, Zaremba, Noll, Wiggins, Burgett
Nay: (0)

YORKTOWN VILLAGE ACTIVITY DISTRICT ACCESSORY STRUCTURE APPROVAL: GEORGE E. BENNETT, JR.

Mr. Carter made a presentation on proposed Resolution R01-153 to approve the request of George E. Bennett, Jr., for the construction of an accessory garage on property located at 119 Smith Street in Yorktown.

Mr. Wiggins asked what the distance was at the closest point between the proposed garage and the existing house.

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Mr. Carter indicated there would be sufficient room between the existing house and the proposed garage to drive a vehicle behind the house to the existing garage. There is at least 10-15 feet between the existing house and the corner of the new garage.

Mr. Wiggins noted the design was beautiful and blended well with the existing buildings.

Mr. Ashe indicated the applicant should be allowed to use high quality vinyl siding as a substitute for aluminum siding.

Mrs. Noll asked what the surface of the driveway would be.

Mr. Carter indicated the existing driveway is gravel, but the Bennett's plan to pave a part of it.

Discussion followed concerning the use of the abbreviated approval process for an accessory use rather than going through the more involved special use permit procedure of Planning Commission review and public hearings.

Mrs. Noll then moved the adoption of proposed Resolution R01-153 that reads:

A RESOLUTION TO APPROVE THE REQUEST OF GEORGE E. BENNETT, JR., FOR THE CONSTRUCTION OF AN ACCESSORY GARAGE ON PROPERTY LOCATED AT 119 SMITH STREET IN YORKTOWN

WHEREAS, George E. Bennett, Jr., has submitted an application requesting permission to construct accessory garage on property located at 119 Smith Street in Yorktown; and

WHEREAS, pursuant to Section 24.1-327(b)(3) of the York County Zoning Ordinance, such requests may be approved by the Board of Supervisors by resolution; and

WHEREAS, the proposed garage's location and design are compatible with adjacent properties and structures;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 4th day of September, 2001, that the request of George E. Bennett, Jr., for the construction of an accessory garage on property located at 119 Smith Street, as described in the County Administrator's report to the Board dated August 10, 2001, be, and it is hereby, approved.

On roll call, the vote was:

Yea: (5) Zaremba, Noll, Wiggins, Ashe, Burgett
Nay: (0)

CLOSED MEETING. At 9:05 p.m. Mr. Wiggins moved that the meeting be convened in Closed Meeting pursuant to Section 2.1-344(a)(1) of the Code of Virginia pertaining to appointments to Boards and Commissions and the salary of specific County officers; and Section 2.1-344(a)(3) pertaining to the acquisition of property for a public purpose.

On roll call the vote was:

Yea: (5) Noll, Wiggins, Ashe, Zaremba, Burgett

Nay: (0)

Meeting Reconvened. At 9:33 p.m. the meeting was reconvened in open session by order of the Chair.

Mrs. Noll moved the adoption of proposed Resolution SR-1 that reads:

A RESOLUTION TO CERTIFY COMPLIANCE WITH THE FREEDOM
OF INFORMATION ACT REGARDING MEETING IN CLOSED MEET-
ING

WHEREAS, the York County Board of Supervisors has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.1-344.1 of the Code of Virginia requires a certification by the York County Board of Supervisors that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 4th day of September, 2001, hereby certifies that, to the best of each member's knowledge, (1) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (2) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed, or considered by the York County Board of Supervisors.

On roll call the vote was:

Yea: (5) Wiggins, Ashe, Zaremba, Noll, Burgett
Nay: (0)

APPOINTMENT TO THE COLONIAL SERVICES BOARD

Mr. Wiggins moved the adoption of proposed Resolution R01-117 that reads:

A RESOLUTION TO APPOINT A YORK COUNTY REPRESENTATIVE
TO THE COLONIAL SERVICES BOARD

BE IT RESOLVED by the York County Board of Supervisors this the 4th day of September, 2001, that Joy Ivey be, and is hereby, appointed as a representative to the Colonial Services Board for a term of three years, such term to begin immediately and expire June 30, 2004.

On roll call, the vote was:

Yea: (5) Ashe, Zaremba, Noll, Wiggins, Burgett
Nay: (0)

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Meeting Adjourned. At 9:37 p.m. Mr. Zaremba moved that the meeting be adjourned to 6:00 p.m., Tuesday, September 11, 2001, in the East Room, York Hall, for the purpose of conducting a work session.

On roll call, the vote was:

Yea: (5) Zaremba, Noll, Wiggins, Ashe, Burgett
Nay: (0)

James O. McReynolds, Clerk
York County Board of Supervisors

James S. Burgett, Chairman
York County Board of Supervisors